

MENTAL HEALTH PATIENT ADVOCATE OFFICE



**2001
Annual Report**

Alberta
HEALTH AND WELLNESS



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Office of the Minister

The Honourable Kenneth R. Kowalski
Office of the Speaker
Room 325 Legislature Building
10800 – 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

For your reference, I am submitting the twelfth Annual Report of the Mental Health Patient Advocate, which summarizes the activities of his office for the calendar year ending December 31, 2001.

Sincerely,

Gary G. Mar, Q.C.
Minister of Health and Wellness
M.L.A. Calgary Nose Creek



HEALTH AND WELLNESS

Mental Health Patient
Advocate Office

12th floor, Centre West Building
10035 - 108 Street
Edmonton, Alberta
Canada T5J 3E1

Telephone 780/422-1812
Fax 780/422-0695

In Replying Please Quote:

The Honourable Gary Mar
Minister of Health
Room 323
Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Minister:

I am pleased to present you with the twelfth Annual Report of the Mental Health Patient Advocate, summarizing activities for the calendar year ending December 31, 2001.

The report is submitted in accordance with the provisions of *section 47(1)* of the *Mental Health Act* for your presentation to the Legislative Assembly.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. W. Hislop". The signature is stylized with a large, sweeping initial "M" and a long, horizontal stroke extending to the right.

M.W. Hislop, PhD
Mental Health Patient Advocate

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Functional Overview

Established under *Part Six* of the *Alberta Mental Health Act* (1990) the Mental Health Patient Advocate Office serves as a resource for the psychiatric community — assisting patients in designated mental health facilities to understand and exercise their rights, and investigating concerns or complaints relating to certified patients involuntarily detained under the *Act*. The Patient Advocate reports directly to the Minister of Health, who is required to lay copies of the Advocate's annual reports before the Legislative Assembly at times prescribed in the *Act*.

The Patient Advocate Office is centrally located in downtown Edmonton and serves the entire province. Anyone may contact the office regarding inquiries, concerns or complaints on behalf of an individual who is a current or former formal patient. Formal patients are persons who are or have been involuntarily detained in designated mental health facilities under two Admission or two Renewal Certificates as prescribed in the *Mental Health Act*. Fourteen Hospitals throughout the province are currently designated as psychiatric facilities able to admit and detain formal patients; a listing of these is

provided in the Appendices. If it is uncertain whether an individual who is the subject of concern has been formally certified, the Patient Advocate Office may be contacted directly and will ascertain the legal status of the patient. Telephone inquiries may be made to the Edmonton office at **(780) 422-1812**; calls from locations outside the Edmonton area may be placed free of long distance charges through the Alberta Government Rite Line **(310-0000-422-1812)**. Written contacts should contain as much detailed information as possible, be marked 'confidential' and mailed directly to:

Office of the Mental Health Patient Advocate
12th Floor, Centre West Building
10035 – 108 Street
Edmonton, Alberta
T5J 3E1.

The Patient Advocate Office strives to strike the appropriate and often delicate balances required to resolve problems presented by or on behalf of patients. If an issue presented is jurisdictional, the office will make all inquiries and investigations necessary to resolve the matter, and has authority to engage the services of

lawyers, psychiatrists or other persons to assist in the process when deemed appropriate. Should the office not have jurisdiction to pursue the matter, general advice may be provided by way of informal assistance and/or a referral made to the most relevant resource having authority to deal with the problem. The office has no decision-making authority that is binding on third parties and is not empowered to conduct systemic investigations. The Advocate does monitor statutory and regulatory changes relating to psychiatric services, however, and makes recommendations to appropriate authorities regarding systemic problems, administrative policies and mental health legislation. Systemic and rights information pertaining to psychiatric patients and services are offered as well to the general public. In addition, office representatives routinely attend fatality inquiries involving formal patients and make regular site visits to most designated hospitals throughout the province on both a proactive basis and in response to individual or collective complaints. All contacts and investigations are conducted in confidence, and the Patient Advocate Office will not disclose information pertaining to any aspect of

investigative activity except as required by law or by the performance of its duties under the *Mental Health Act* and *Patient Advocate Regulation*.

MISSION STATEMENT

To serve as a resource for psychiatric patients by:

- Assisting formal (certified) patients involuntarily detained in facilities designated under the *Mental Health Act* to understand and exercise their rights;
- Investigating and facilitating redress for concerns and complaints relating to formal patients;
- Assessing and recommending revision to facility procedures for:
 - Admitting persons detained under the *Mental Health Act*;
 - Informing formal patients of their rights;
 - Providing information as required by the *Act* to guardians, relatives or designates of formal patients;
- Advocating for amendments to mental health and other protective legislation as these relate to formal patients;
- Offering a consumer oriented source of information for psychiatric patients and others acting on their behalf;
- Supporting client perspectives in the development and implementation of mental health policies and procedures;
- Promoting public, professional and consumer awareness of rights related issues in mental health.

Comments of the Patient Advocate

The Patient Advocate Office witnessed overall activity levels during 2001 which paralleled those of previous years. Most statistical parameters of office activity closely approximated last year's data. Patterns of incoming calls differed somewhat, however, with resource service requests dropping slightly from those documented in 2000. Case activity, by contrast, reflected increases in the numbers of contacts and issues dealt with even though the number of new case files opened revealed no significant change. Overall, the total issues addressed and the total contacts required to resolve respective concerns were nearly identical with last year's figures. The plateau in office activity observed over the last five consecutive years was thus maintained again during 2001.

A typically wide range of problems was presented to the Patient Advocate Office for resolution during the year, with many continuing to be legal in nature or at least having legal implications. I attempt in these annual comments to provide a brief sampling of issues raised in order to reflect the range of concerns confronting the office in addition to routine inquiries about rights provisions of the *Mental Health Act*. Less common issues

arising last year involved hospital seclusion policies and delays in obtaining surrogate treatment consent. More familiar recurring problems included continued confusion around the issuance of Form 11/Physician's Certificates for incompetent formal patients and difficulties with *section 15* of the *Mental Health Act*, which prohibits staff from tampering or interfering with patients' mail under any circumstances. Numerous complaints also continued to focus on the *section 30* control provisions of the *Act*. As observed last year, shortfalls in both community and inpatient psychiatric services appear to be ongoing problems despite infusions of money into the system and the creation of additional beds. Most hospitals continue to report increasing illness acuity for patients entering the system, resulting in augmented demands on acute beds, staffing resources and community services alike. On a more positive note, previously reported difficulties arising when certified patients are detained in emergency areas, medical/surgical units or geriatric beds seem to have been alleviated somewhat through better liaison with respective psychiatric units.

The Patient Advocate continues to routinely attend public inquiries for formal patients. Three fatality inquiries were attended during 2001; judgements for two of these have been communicated to the Patient Advocate Office by the Chief Medical Examiner and the third awaits the release of judicial findings. The office also contributed comments in response to the Ministry's consultation paper on the *Forms and Review Panel Regulations*. Unfortunately, summary data from the Canadian Institute for Health Information and other sources failed to arrive this year in time for inclusion in this report. I have thus been unable to present my usual overview and analysis of provincial trends included in previous annual submissions.

On more mundane matters there have been numerous changes in routine office operations during the year, including both telephone and computer upgrades. In addition, Ms. Mayada Smiley joined our office staff as receptionist/secretary to replace Ms. Abbouzeenni, who has taken a one-year maternity leave. Another staffing change is imminent. This will be my last annual report; by the time this document goes to print I will have

terminated my position as a senior official with Alberta Health and Wellness to embrace the challenges and rewards of retirement. I have enjoyed the nearly thirteen years that I have had the honour of serving as Provincial Mental Health Patient Advocate and I leave with only one regret. I must profess profound disappointment in the lack of response to the many overtures made over the years for a more tractable office mandate. This was cited in last year's report and I will not regurgitate the issues again here. Suffice to say that this is but one of numerous recommended amendments to the *Mental Health Act* repeatedly made by many major stakeholders in the mental health system. Hopefully, remedies are in the making.

A. General

Statistical summaries for Patient Advocate Office activities during the 2001 calendar year are provided in **Table I**. These data comprise a combination of resource service and case file activities undertaken during the year. Unless otherwise noted the proportions and breakdowns presented are comparable with previous years' findings. Most differences noted this year were relatively minor and reflect normal year to year variances.

A total of 2,061 personal, telephone and written contacts with Alberta citizens were handled by the Patient Advocate Office during 2001. These contacts represent a five per cent increase over those documented in the previous year, and involved the addressing of 2,193 independent

issues. Overall issues were almost identical with those recorded last year and are broken down by category in **Figure I**. These categories are approximate since many matters can be classified in more than one way, depending on the relative emphasis involved.

Problems presented during 2001 covered a similarly wide range of topics as was witnessed in previous years. Issues involving hospital privileges, treatment/medication matters, administrative policies and social/financial problems continued to comprise common concerns. As in previous years, however, most complaints were legal in nature, reflecting ongoing emphases on the involuntary apprehension, detention and treatment provisions of the *Mental Health Act*. The relative

Table I

Resource Services

Issues	796
Contacts	559

Case Files

Issues	1,397
Contacts	1,502
New Files	268

Overall Activity

Total Issues	2,193
Total Contacts	2,061

plateau in issues presented for resolution over the last several years continued through 2001, and this is reflected in **Figure II**.

B. Resource Services

Resource services comprise both office initiated and response related activities in which the office is used as an information source for persons seeking advice on individual problems or systemic matters relating to psychiatric services. Case files are not opened in these instances since callers are not concerned with specific patients detained in designated mental health facilities. Most resource service requests come from individual citizens, but many emanate as well from a diverse range of agencies, government departments, legal firms, professional associations, MLA offices, consumer organizations, and health or social service providers across the province. A few also come from concerned citizens, agencies and officials in other jurisdictions. Resource service requests decreased somewhat during the past year. A total of 559 resource contacts were documented, reflecting a drop of over six per cent from those recorded in 2000. The number of individual issues or problems presented in the context of these collective resource service

requests was 796, representing a nine per cent decrease from those addressed last year. These differences fall within the range of normal year to year fluctuations. Other resource service activities included inservice sessions for staff in various regional hospitals as well as presentations to several psychiatric consumer support groups over the year.

C. Case Work

New case files opened during 2001 totaled 268, in the context of which 1,397 independent issues were presented for resolution. These figures represent about the same number of new cases and a four per cent increase in case related issues compared with the previous year. The number of personal, written and telephone contacts required to resolve these collective case related concerns was 1,502, reflecting a 10 per cent increase over those documented in 2000. The average number contacts required to conclude each case file was about 5.5, and this is consistent with the averages recorded in previous years. These case files involved inquiries and investigations concerning patients currently or recently residing in designated mental health facilities around the province. They also include referred investigations

Figure I

Total Issues

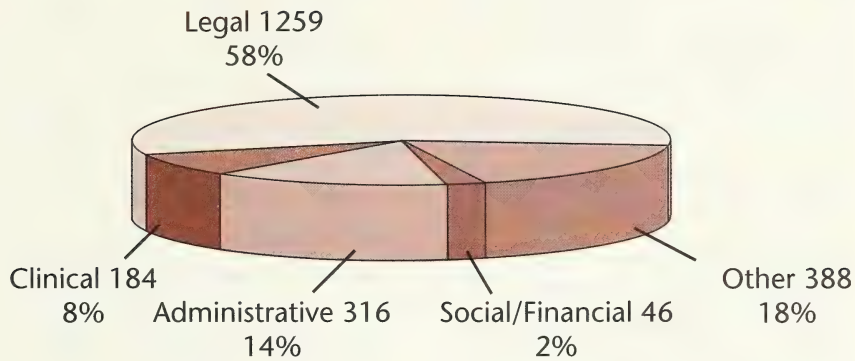
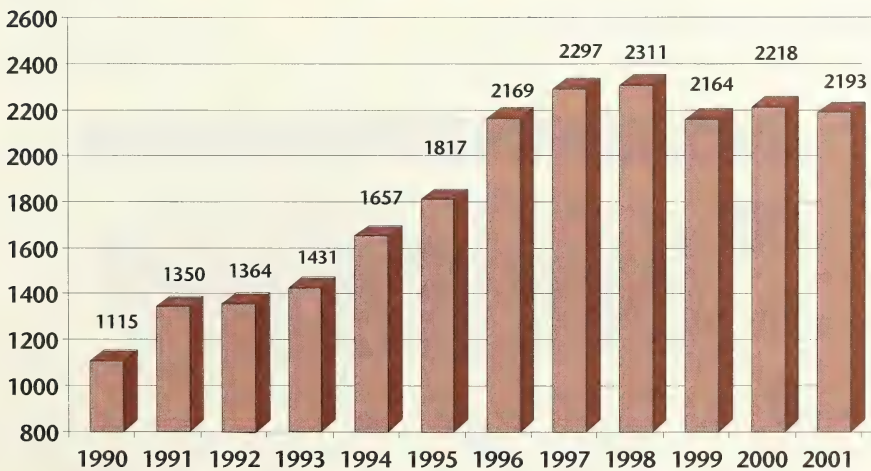


Figure II

Total Issues



conducted under the *Protection of Persons in Care Act*. The following graphs and tables delineate various breakdowns of case related activities for the year; where required, these data are accompanied by appropriate definitions and interpretive comments.

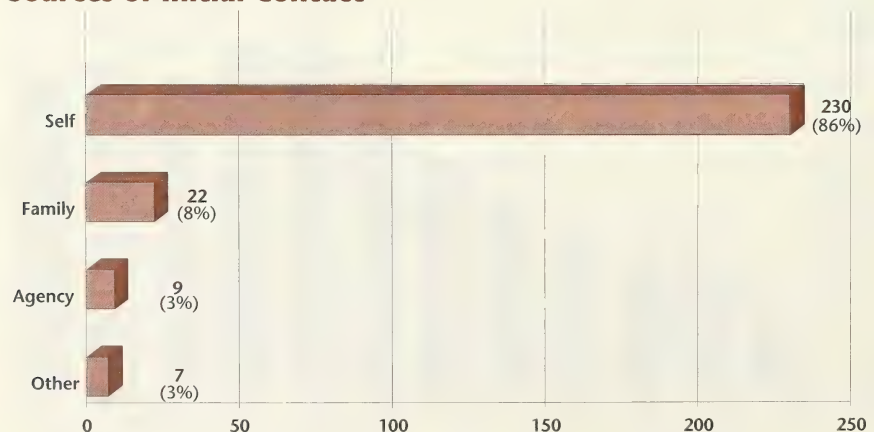
Figure III provides a breakdown of initial case contacts, showing the proportions emanating from patients themselves, family members or agencies on their behalf. As in previous years most cases were self referred. The remaining calls came from sources such as friends, neighbours, landlords, MLA's, other patients or concerned citizens. The majority of initial case contacts

constituted telephone inquiries; the balance derived from our routine site visits to designated psychiatric hospitals. Consistent with previous years' findings, only a few initial case contacts were received in written form. The latter modality data do not distinguish between service requests originating directly from clients themselves and those coming from third party referrals. In all cases, however, the patient is considered the 'client'; third party complainants or referral agencies are subject to the strict confidentiality provisions prescribed for the office in the *Patient Advocate Regulation*.

Figure IV describes the legal status of patients for whom case files were

Figure III

Sources of Initial Contact



opened during the year. The term 'Other Involuntary' denotes patients under compulsory detention in designated mental health facilities by a way of Disposition Orders from the courts or Forensic Boards of Review, Compulsory Care Orders under the *Dependent Adults Act*, or single Admission Certificates pursuant to the *Mental Health Act*. The term 'Other' represents a catch-all category for patients not falling into any of the other classifications. It denotes persons currently or recently in hospital whose legal status was either irrelevant to the presenting problem or undetermined due to lack of information from the complainant. Over 81 per cent of case file requests for assistance involved currently certified patients, consistent

with the proportions recorded in previous years. The remaining service requests related to voluntary patients, those involuntarily admitted under only one medical certificate or patients detained under authority other than the *Mental Health Act*. These patients remain non-jurisdictional for our office.

Table II denotes the disposition of case related issues addressed during the year, illustrating outcomes independently for jurisdictional and non-jurisdictional matters. Of the 1,397 case related issues presented to the office, 1,283 or 92 per cent were jurisdictional; this is marginally higher than levels observed over the last several years. Over 90 per cent of all presenting problems were 'resolved'; this is also slightly higher than those documented in previous

Figure IV

Subjects of Call

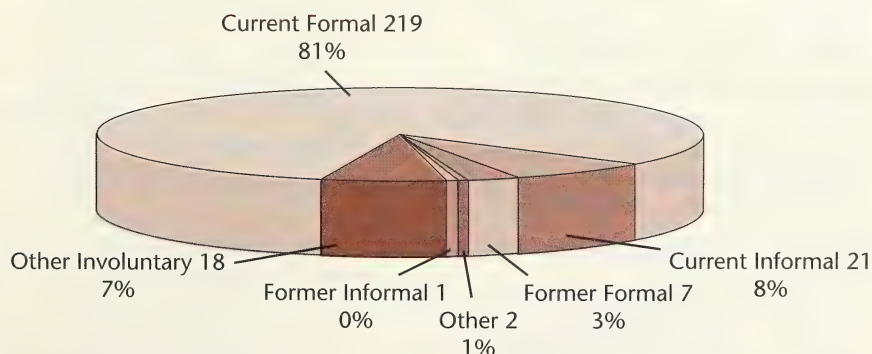


Table II

Issues — Disposition

Period January 1, 2001 – December 31, 2001

Disposition	Jurisdictional	Non-Jurisdictional	Total No.	%
R	1219	44	1263	90.4
U	11	3	14	1.0
D	5	3	8	0.6
D & R	46	61	107	7.7
NR/NA	2	3	5	0.3
NR/RNF	0	0	0	0
Total Issues	1283	114	1397	100

Legend:

R — Resolved

(fully or partially; see previous note)

U — Unsubstantiated

(verification not obtained, or issue remains sufficiently undefined as to preclude pursuit)

D — Discontinued

(inquiries/investigation dropped by the office or complainant due to lack of ability/need to further pursue; this can include an inability to establish jurisdiction)

D&R — Declined and Referred

(pertains primarily to non-jurisdictional issues when information or informal assistance are inappropriate or insufficient to resolve the matter; for jurisdictional concerns, denotes either that the patient is capable of pursuing remedy via established mechanisms but has made no attempts to do so, or that ultimate resolution is beyond the scope of office authority)

NR/NA — Not Resolved

(remedy not available)

NR/RNF — Not Resolved

(recommendations not acted upon, or investigation/follow-up not yet completed)

years and does not necessarily reflect complete consumer satisfaction in all instances. Rather, it denotes actions and outcomes which capture all that might reasonably be accomplished by an advocacy service relative to the matters presented for assistance and/or resolution.

D. Agency Contacts

The Patient Advocate Office routinely deals with a wide range of individuals, offices and agencies. The following is a listing of most major sources other than individual complainants with which the office had direct contact during the year 2001.

Government Departments and Offices

Alberta Alcohol and Drug Abuse Commission

- **Alberta Children's Service**
 - Children's Advocate

Alberta Community Development

- Human Rights and Citizenship Commission
- Protection of Persons in Care

Alberta Health and Wellness

- Communications
- Deputy Minister
- Finance and Corporate Services
 - Financial Control
 - Financial Planning
 - Legal and Legislative Services
- Health Accountability
 - Information Management
 - Library Services

- Health Facilities Review Committee
- Health Workforce Services
 - Employee Relations
 - Human Resource Services
- Mental Health Review Panels
 - Calgary
 - Edmonton
 - Ponoka
- Minister
- Population Health
- Program Services
- Strategic Planning

Alberta Human Resources and Employment

- Library Services
- Public Guardian
 - Regional Offices
- Social Care Facilities Review Committee

Alberta Justice and Attorney General

- Chief Medical Examiner
- Communications
- Library Services
- Public Trustee
- Sheriff's Office

Alberta Learning

Alberta Legislative Library

Ethics Commissioner

Information and Privacy Commissioner

MLA Offices:

- Pearl Calahasen (Lesser Slave Lake)

Premier's Council on Persons with Disabilities

Provincial Legislature

- Alberta Hansard Library
- Ceremonial and Security Services

Provincial Ombudsman

Public Affairs Bureau

Queen's Printer

Other Government Departments and Offices

British Columbia Ministry of Health

- Mental Health Advocate

New Brunswick Legislative Library:

Fredericton

New Brunswick Ministry of Health

- Psychiatric Patient Advocate: Moncton

Ontario Ministry of Health

- Psychiatric Patient Advocate: Toronto

Facilities

- Alberta Hospital Edmonton
- Alberta Hospital Ponoka
- Claresholm Care Centre
- Foothills General Hospital: Calgary
- Glenrose Hospital: Edmonton
- Grey Nuns Hospital: Edmonton
- Lethbridge Regional Hospital
- Medicine Hat Regional Hospital
- Misericordia Hospital: Edmonton
- Northern Lights Regional Health Centre: Ft. McMurray
- Peter Lougheed Centre: Calgary
- Queen Elizabeth II General Hospital: Grande Prairie
- Raymond Care Centre
- Rockyview General Hospital: Calgary
- Royal Alexandra Hospital: Edmonton
- University of Alberta Hospitals: Edmonton

Community Agencies and Organizations

- Alberta Mental Health Board
 - Patient Representatives
 - Provincial Office
 - Regional Clinics
- Alberta Vocational College: Lac La Biche
- Canadian College of Health Service Executives: Ottawa, Ontario
- Canadian Disability Organization: Toronto, Ontario
- Canadian Mental Health Association
 - Provincial Office
 - Regional Offices
- College of Physicians and Surgeons of Alberta
 - Advocate Office
- Crisis Centre: Cold Lake
- Durocher Simpson
- Edmonton Police Service
- Edmonton Remand Centre
- Excel Resources Society
- Family and Children's Services Society : Swan Hills
- Grande Prairie College
 - Library Services
- Grant MacEwan Community College
- Guardian Appollo Pharmacy
- Hollander Analytical Services: Victoria, B.C.
- Landlord and Tenant Advisory Board
- Legal Aid Society of Alberta
 - Duty Counsel
 - Provincial Office
 - Regional Offices
- McMaster University: Hamilton, Ontario
- Mount Royal College: Calgary
- National Library of Canada: Ottawa, Ontario
- P.H.I.L.A.

- Regional Health Authorities
 - Calgary
 - Legal Services
 - Mental Health and Psychiatric Services
 - Regional Complaints Office
 - Capital
 - Eastwood Public Health Centre
 - Environmental Health
 - Patient Concerns
 - West Jasper Place Public Health Centre
 - Chinook
 - Crossroads
 - David Thompson
 - Headwaters
 - Mistahia
 - Northern Lights
 - Palliser
- Royal Canadian Mounted Police
 - 'K' Division
- Schizophrenia Society of Alberta
 - Calgary Office
 - Edmonton Office
 - Unsung Heroes (Support Group)
- Schizophrenia Society of Canada: Saskatoon, Saskatchewan
- Some Other Solutions: Fort McMurray
- Support Network
 - Community Service Referral Line
 - Distress Line
- University of Alberta
 - Career and Placement Centre
 - Faculty of Extension
 - Faculty of Law
 - Faculty of Medicine and Dentistry
 - Faculty of Nursing
 - Health Law Institute
- University of Calgary
 - Faculty of Law
 - Faculty of Medicine
 - MacKimmie Library
- University of Lethbridge
 - Library Services
- University of New Brunswick: Fredericton
 - Gerard La Forest Law Library
 - Harriet Irving Library
- Verging the Gap: Calgary
- Women's Emergency Accommodation Centre

Media Contacts

- CFCN TV: Calgary
- CTV
- Micromedia: Toronto, Ontario
- Southam Information and Technology Group: Don Mills, Ontario

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Budget and Expenditures

Fiscal Year	Budget Allocation	Annual Expenditures	Surplus*
1990 – 91	358,518	243,810	114,708
1991 – 92	385,485	262,944	122,541
1992 – 93	385,189	256,359	128,830
1993 – 94	322,324	192,819	129,505
1994 – 95	299,000	176,759	122,241
1995 – 96	299,000	193,217	105,783
1996 – 97	262,000	186,816	75,184
1997 – 98	267,000	211,758	55,242
1998 – 99	285,000	226,634	58,366
1999 – 2000	296,000	228,071	67,929
2000 – 2001	302,000	262,495	39,505
2001 – 2002	307,400		

*Surplus returned to General Revenue

Rights Summary for Formal Patients

If you are a formal (involuntary) patient under the *Mental Health Act* you have numerous rights. The Mental Health Patient Advocate Office has summarized a few of these rights for your information.

Rights Regarding Your Detention

You have the right to be informed of the reasons for your involuntary detention, and to receive copies of your Admission or Renewal Certificates.

You have the right to appeal being kept in hospital against your will by applying to the Review Panel.

The hospital will provide you with the name and address of the Review Panel Chairman, an application for review (Form 12), and any assistance you may require in making your application to the Review Panel.

You and your lawyer **have the right** to be present when evidence is given at the Review Panel hearing, and to question any person who gives evidence.

You have the right to appeal a decision of the Review Panel to not cancel your Admission or Renewal Certificates.

Rights Regarding Your Treatment

You have the right to refuse a treatment if you are mentally competent to make your own treatment decisions.

If you object to treatment, your doctor may apply to the Review Panel. The Review Panel will review your situation, and either support your objection or support your doctor's application for a compulsory Treatment Order.

You have the right to apply to the Review Panel for a hearing to appeal your doctor's certificate (Form 11) stating that you are not mentally competent to make your own treatment decisions.

You and your lawyer **have the right** to be present when evidence is given at Review Panel hearings, and to question any person who gives evidence.

You have the right to appeal a Treatment Order or other written decision of the Review Panel.

General Rights

You have the right to contact and receive visits from your lawyer at any time.

You may arrange legal representation for your Review Panel hearing if you so desire. Appeals of Review Panel decisions are made to the Court of Queen's Bench, and will require the assistance of a lawyer.

You have the right to confidentiality for all clinical records pertaining to your care in hospital, and for any communications written by you or to you. Hospital staff cannot open, read, withhold or interfere with the delivery of your correspondence.

You have the right to receive visitors during visiting hours fixed by the hospital unless your doctor thinks that visitors would be harmful to your health.

You have the right to contact the office of the Mental Health Patient Advocate regarding any questions or concerns that you might have with respect to your rights or care while in hospital.

For additional information call the Mental Health Patient Advocate Office at:

- Edmonton: (780) 422-1812
- Other Centres in Alberta:
dial **310-0000-422-1812**
(No long distance charges apply.)

Mental Health Act Designation of Facilities

The following hospitals are designated under the *Mental Health Act* as facilities for the care, observation, examination, assessment, treatment, detention and control of persons suffering from mental disorder:

- The Alberta Hospital Edmonton;
- The Alberta Hospital Ponoka;
- The Claresholm Care Centre;
- The Foothills Provincial General Hospital, Calgary;
- Grey Nuns Hospital, Edmonton;
- Lethbridge Regional Hospital;
- Medicine Hat Regional Hospital;
- Misericordia Hospital, Edmonton;

- Northern Lights Regional Health Centre, Fort McMurray;
- Peter Lougheed Centre, Calgary;
- Queen Elizabeth II Hospital, Grand Prairie;
- Rockyview General Hospital, Edmonton;
- Royal Alexandra Hospital, Edmonton;
- University of Alberta Hospitals, Edmonton.

The Forensic Services of the Peter Lougheed Centre and the Alberta Hospital Edmonton are designated as facilities for the purpose of *section 13* of the *Act*.

Mental Health Act

Part 6 — Mental Health Patient Advocate

Definition

44 In this Part, “Patient Advocate” means the Mental Health Patient Advocate appointed under *section 45*.

Patient Advocate

45(1) The Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients and exercise such other powers and perform such other duties as are prescribed in the *Regulations*.

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the powers and duties of the Patient Advocate;
- (b) requiring boards to make available any information referred to in the *Regulations* for the purpose of an investigation by the Patient Advocate.

Employees and advisors

46(1) In accordance with the *Public Service Act* there may be appointed any employees required to assist the

Patient Advocate in performing his duties under this *Act*.

(2) The Patient Advocate may engage the services of lawyers, psychiatrists or other persons having special knowledge in connection with his duties under this *Act*.

Annual report

47(1) As soon as possible after the end of each year, the Patient Advocate shall prepare and submit to the Minister a report summarizing his activities in that year.

(2) On receiving a report under subsection (1), the Minister shall lay a copy of the report before the Legislative Assembly if it is then sitting, and if not, within 15 days after the commencement of the next ensuing sitting.

Mental Health Act
Patient Advocate Regulation

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Definitions

- 1 In this *Regulation*,
 - (a) “Act” means the *Mental Health Act*;
 - (b) “formal patient” includes a person who has been a formal patient;
 - (c) “Patient Advocate” means the Mental Health Patient Advocate appointed under the *Act*.

Delegation

- 2 The Patient Advocate may in writing delegate to any person holding any office under him any power or duty conferred or imposed on him under the *Act* or the regulations under the *Act*, except the power of delegation in this section and the power or duty to make any report under the *Act* or *Regulations*.

Power to act on a complaint relating to a formal patient

- 3(1) On receipt of a complaint from or relating to a formal patient, the Patient Advocate
 - (a) shall notify the board of the facility in which the formal patient is detained of the nature of the complaint,
 - (b) shall notify the formal patient, in writing, that a complaint has been received, of the nature of the complaint and of any

investigation arising from the complaint,

- (c) if a person other than a formal patient is named in the complaint, shall notify that person of any investigation arising from the complaint, and
 - (d) shall make any contact with the formal patient and conduct any investigation of the complaint that the Patient Advocate considers necessary.
- (2) If a complaint relates to a formal patient who has been transferred from one facility to another, the notice under *subsection (1) (a)* shall be provided to the boards of both facilities.
 - (3) A formal patient and a person who has received notice of an investigation under *subsection (1) (c)* has the right to make representations to the Patient Advocate relating to the complaint.
 - (4) The Patient Advocate may investigate a complaint only as it relates to the period during which the person who is the subject of the complaint was subject to two Admission Certificates or two Renewal Certificates.
 - (5) On receipt of a complaint, the Patient Advocate shall provide to the formal patient and to the complainant, as far as is reasonable,

information respecting the following:

- (a) the rights of the formal patient under the *Mental Health Act*;
- (b) how the formal patient may obtain legal counsel;
- (c) how to make an application to the Review Panel;
- (d) how to commence an appeal to the Court of Queen's Bench.

Power to initiate an investigation without a complaint

- 4 The Patient Advocate may, without receiving a complaint, initiate and conduct an investigation into
- (a) any procedure of a facility relating to the admission of a person detained in the facility pursuant to the *Act*, and
 - (b) any procedure of a facility
 - (i) for informing a formal patient of his rights, or
 - (ii) for providing information as required by the *Act* to guardians, nearest relatives or designates of a formal patient.

Procedures

5(1) The Patient Advocate

- (a) shall maintain a record relating to every complaint and every investigation under this *Regulation*, and
 - (b) may make any inquiries he considers necessary to conduct an investigation.
- (2) The Patient Advocate shall notify the board of a facility of his intention to contact a patient or a formal patient of the facility and the board shall grant the Patient Advocate access at all reasonable times.
- (3) The Patient Advocate shall notify the board of a facility of his intention to carry out an investigation that relates to the facility, whether the investigation arises pursuant to *section 3 or 4*.
- (4) The Patient Advocate is not required to hold a hearing.
- (5) If the Patient Advocate requests in writing from the board of a facility
- (a) any policy or directive of the facility,
 - (b) any medical or other record or any information, file or other document relating to a patient or a formal patient who is the subject of an investigation under *section 3 or 4*, or

- (c) any other information, file or document relating to an investigation under *section 3* or *4*, the board shall, within a reasonable time after receipt of the request, provide access to the materials requested.
- (6) If the Patient Advocate so requests, the board shall provide a copy of any materials requested under *subsection (5)*.

Disclosure

- 6 The Patient Advocate shall not disclose information obtained in the course of an investigation except as required by law or in the performance of his duties under the *Act* or this *Regulation*.

Report

- 7(1) On completion of an investigation, the Patient Advocate shall prepare and send to a board a copy of the report of the investigation.
- (2) A report that contains recommendations shall state the reasons for the recommendations.
- (3) If a report is sent to a board under *subsection (1)* and within a reasonable time after the report is sent to the board the Patient Advocate is of the opinion that the board has not taken appropriate action on any recommendation, the Patient Advocate shall send a

copy of the report and the board's response, if any, to the Minister.

Frivolous complaint

- 8 The Patient Advocate may refuse to investigate or cease to investigate a complaint if in his opinion
 - (a) the subject matter of the complaint is trivial,
 - (b) the complaint is frivolous or vexatious, or
 - (c) having regard to all of the circumstances, no investigation is necessary.

Notice to complainant

- 9 The Patient Advocate
 - (a) shall inform a formal patient of the disposition of any complaint that relates to the formal patient, and
 - (b) may inform a complainant of the disposition of any complaint initiated by the complainant.

Coming into force

- 10 *This Regulation comes into force on January 1, 1990.*

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